

REMARKS

This is a full and timely response to the Office Action mailed December 31, 2008.

By this Amendment, new claim 10 has been added to reintroduce a previously presented embodiment which was encompassed by canceled claim 3. Thus, claims 8 and 10 are currently pending in this application. Support for new claim 10 can be readily found variously throughout the specification and the original claims, see, in particular, original claim 3.

In view of these amendments, Applicant believes that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the above amendments and the following remarks is respectfully requested .

Rejection under 35 U.S.C. §102

Claim 8 is rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Saito et al. (U.S. Patent No. 7,150,285). Applicant believes that this rejection has been overcome by the addition of new claim 10 and the filing of the Rule 1.132 Declaration on December 2, 2008 establishing that the reference invention of Saito et al. (U.S. Patent No. 7,150,285) is not by “another” inventive entity.

As noted in Applicant response filed December 2, 2008, the Saito et al. reference (U.S. Patent No. 7,150,285) is categorized as a prior art reference under 35 U.S.C. §102(e). With the previous filing of the Rule 1.132 Declaration executed by Mr. Atsuhiko Saito, Mr. Jyuzaemon Iwasaki, Mr. Hiroyuki Kameoka, Mr. Yasuo Ibuki, Mr. Fumio Taniguchi, Mr. Kotaro Yanagi, and Mr. Hiroshi Shigeta (inventors of the Saito et al. reference and the present application), Applicant believes that Saito et al. should be removed as a prior art reference since it has been established that the reference invention of Saito et al. is not by “another” inventive entity.

In the Office Action dated December 31, 2008, the Examiner expressed concerns that the statements in the Declaration raise an issue regarding the inventorship of Mr. Mikihiro Yamashita since there is only one claim pending in the present application. The Examiner believes that if Mr. Mikihiro Yamashita is an inventor of the subject matter of claim 8, Mr. Mikihiro Yamashita must be added as an inventor to U.S. Patent No. 7,150,285 since such subject matter is disclosed therein. If, however, Mr. Mikihiro Yamashita is not an inventor of the subject matter of claim 8, then the

Examiner believes that Mr. Mikihiro Yamashita must be removed as an inventor on the current application.

Applicant has overcome the Examiner's concerns by adding new claim 10 which is directed to the subject matter of canceled claim 3 and represents the inventive contribution of Mr. Mikihiro Yamashita to the present application. Applicant inadvertently canceled claim 3 in the response filed December 11, 2007 instead of amending the claim to depend on amended claim 8 (which was amended in Applicant's response filed August 1, 2007 to be in independent form to include the limitation of the base claim and any intervening claim). Applicant sincerely apologizes for the confusion caused by this oversight.

Thus, Applicant believes that the concerns raised by the Examiner in the Office Action has been overcome since claim 8 represents the inventive contributions of Mr. Atsuhiko Saito, Mr. Juzaemon Iwasaki, Mr. Hiroyuki Kameoka, Mr. Yasuo Ibuki, Mr. Fumio Taniguchi, Mr. Kotaro Yanagi, and Mr. Hiroshi Shigeta (inventors of the Saito et al. reference and the present application), and new claim 10 (which depends on claim 8) represents the inventive contribution of Mr. Mikihiro Yamashita. As a result, Saito et al. can no longer be a valid prior art reference against claim 8 under 35 U.S.C. §102(e) since the previously filed Rule 1.132 Declaration clearly establishes that the reference invention of Saito et al. is not by "*another*" inventive entity.


Hence, withdrawal of the outstanding rejection is respectfully requested.

CONCLUSION

For the foregoing reasons, all the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Dated: March 31, 2009

Respectfully submitted,

By:  _____

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